

Forest Service, USDA

§ 251.51

Act of October 17, 1940 (54 Stat. 1197), is prohibited.

(b) Access to lands within the Petersburg watershed is hereby authorized, without further written approval, for the following routine purposes:

(1) The discharge of official duties related to management of the Tongass National Forest by Federal employees, holders of Forest Service contracts, or Forest Service agents;

(2) The operation, maintenance, and improvement of the municipal water system by Federal and State officials and employees of the city of Petersburg; and

(3) Public recreational use of the Raven's Roost Trail for access to and from the Raven's Roost public recreation cabin and the Alpine Recreation Area.

(c) Any person who wishes to enter upon the lands within the watershed for purposes other than those listed in paragraph (b) must obtain a permit that has been signed by the appropriate city official and countersigned by the District Ranger.

(d) Unauthorized entrance upon lands within the watershed is subject to punishment as provided in 36 CFR 261.1b.

(e) The Forest Supervisor of the Stikine Area of the Tongass National Forest may authorize the removal of timber from the watershed under the regulations governing disposal of National Forest timber (36 CFR part 223). In any removal of timber from the watershed, the Forest Supervisor shall provide adequate safeguards for the protection of the Petersburg municipal water supply.

[53 FR 26595, July 14, 1988]

Subpart B—Special Uses

AUTHORITY: 16 U.S.C. 472, 497b, 551, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761–1771.

SOURCE: 45 FR 38327, June 6, 1980, unless otherwise noted.

§ 251.50 Scope.

(a) All uses of National Forest System lands, improvements, and resources, except those provided for in the regulations governing the disposal of timber (part 223) and minerals (part 228) and the grazing of livestock (part

222), are designated “special uses.” Before engaging in a special use, persons or entities must submit an application to an authorized officer and must obtain a special use authorization from the authorized officer unless that requirement is waived by paragraph (c) of this section.

(b) Nothing in this section prohibits the temporary occupancy of National Forest System land for the protection of life or property in emergencies, if a special use authorization for such use is obtained at the earliest opportunity.

(c) A special use authorization is not required for noncommercial recreational activities such as camping, picnicking, hiking, fishing, hunting, horseback riding, and boating, as well as noncommercial activities involving the expression of views such as assemblies, meetings, demonstrations, and parades, except for:

(1) Authorization of such use is required by an order issued pursuant to 36 CFR 261.50;

(2) Authorization of such use is required by a regulation issued pursuant to 36 CFR 261.70;

(3) Noncommercial group uses as defined in § 251.51 of this subpart.

(d) Unless otherwise required by order issued under § 261.50 or by regulation issued under § 261.70 of this chapter, the use of existing forest development roads and trails does not require a special-use authorization; however, any such use is subject to compliance with all Federal and State laws governing the roads or trails to be used.

[45 FR 38327, June 6, 1980, as amended at 49 FR 25449, June 21, 1984; 53 FR 16549, May 10, 1988; 60 FR 45293, Aug. 30, 1995]

§ 251.51 Definitions.

Applicant—any individual, partnership, corporation, association, or other business entity, and any Federal, State or governmental entity or agency which applies for a special use authorization.

Authorized officer—any employee of the Forest Service to whom has been delegated the authority to perform the duties described in this part.

Chief—the Chief of the Forest Service.

Commercial use or activity—any use or activity on National Forest System

lands (a) where an entry or participation fee is charged, or (b) where the primary purpose is the sale of a good or service, and in either case, regardless of whether the use or activity is intended to produce a profit.

Easement—a type of special use authorization (usually granted for linear rights-of-way) that is utilized in those situations where a conveyance of a limited and transferable interest in National Forest System land is necessary or desirable to serve or facilitate authorized long-term uses, and that may be compensable according to its terms.

Group use—an activity conducted on National Forest System lands that involves a group of 75 or more people, either as participants or spectators.

Holder—any applicant who has received a special use authorization.

Lease—a type of special use authorization (usually granted for uses other than linear rights-of-way) that is used when substantial capital investment is required and when conveyance of a conditional and transferable interest in National Forest System lands is necessary or desirable to serve or facilitate authorized long-term uses, and that may be revocable and compensable according to its terms.

National Forest System land—all lands, waters, or interests therein administered by the Forest Service.

NEPA procedures—the rules, policies, and procedures governing agency compliance with the National Environmental Policy Act set forth in 50 CFR parts 1500-1508, 7 CFR part 1b, Forest Service Manual Chapter 1950, and Forest Service Handbook 1909.15.

Noncommercial use or activity—any use or activity that does not involve a commercial use or activity as defined in this section.

Permit—a special use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System land or facilities for specified purposes, and which is both revocable and terminable.

Revocation—the cessation of a special use authorization by action of an authorized officer before the end of the specified period of occupancy or use for reasons set forth in §251.60(a)(1)(i), (a)(2)(i), (g), and (h) of this subpart.

Right-of-way—land authorized to be used or occupied for the construction, operation, maintenance and termination of a project or facility passing over, upon, under or through such land.

Secretary—the Secretary of Agriculture.

Ski area—a site and attendant facilities expressly developed to accommodate alpine or nordic skiing and from which the preponderance of revenue is generated by the sale of lift tickets and fees for ski rentals, for skiing instruction and trail passes for the use of permittee-maintained ski trails. A ski area may also include ancillary facilities directly related to the operation and support of skiing activities.

Sound business management principles—a phrase that refers to accepted industry practices or methods of establishing fees and charges that are used or applied by the Forest Service to help establish the appropriate charge for a special use. Examples of such practices and methods include, but are not limited to, appraisals, fee schedules, competitive bidding, negotiation of fees, and application of other economic factors, such as cost efficiency, supply and demand, and administrative costs.

Special use authorization—a permit, term permit, lease, or easement which allows occupancy, use, rights, or privileges of National Forest System land.

Suspension—a temporary revocation of a special use authorization.

Termination—the cessation of a special use authorization by operation of law or by operation of a fixed or agreed-upon condition, event, or time as specified in an authorization without the necessity for any decision or action by the authorized officer; for example, expiration of the authorized term or transfer of the authorized improvement to another party.

Term permit—a special use authorization to occupy and use National Forest System land, other than rights-of-way under §251.53(l) of this part, for a specified period which is both revocable and compensable according to its terms.

[45 FR 38327, June 6, 1980, as amended at 49 FR 25449, June 21, 1984; 53 FR 16550, May 10, 1988; 54 FR 22593, May 25, 1989; 60 FR 45293, Aug. 30, 1995; 60 FR 54409, Oct. 23, 1995; 63 FR 65964, Nov. 30, 1998]

§ 251.52 Delegation of authority.

Special use authorizations shall be issued, granted, amended, renewed, suspended, terminated, or revoked by the Chief, or through delegation, by the Regional Forester, Forest Supervisor, District Ranger or other forest officer, and shall be in such form and contain such terms, stipulations, conditions, and agreements as may be required by the regulations of the Secretary and the instructions of the Chief (7 CFR 2.60; 36 CFR part 200, subpart B).

§ 251.53 Authorities.

Subject to any limitations contained in applicable statutes, the Chief of the Forest Service, or other Agency official to whom such authority is delegated, may issue special use authorizations for National Forest System land under the authorities cited and for the types of use specified in this section as follows:

(a) Permits governing occupancy and use, including group events and distribution of noncommercial printed materials, under the act of June 4, 1897, 30 Stat. 35 (16 U.S.C. 551);

(b) Leases under the Act of February 28, 1899, 30 Stat. 908 (16 U.S.C. 495) for public sanitariums or hotels near or adjacent to mineral springs;

(c) Permits under the Act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431, *et seq.*), for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity in conformity with the rules and regulations prescribed by the Secretaries of the Interior, Agriculture, and War, December 28, 1906 (43 CFR part 3);

(d) Term permits under the Act of March 4, 1915, 38 Stat. 1101, as amended, 70 Stat. 708 (16 U.S.C. 497) for periods not over 30 years and (1) for not over 80 acres for (i) hotels, resorts, and other structures and facilities for recreation, public convenience, or safety; (ii) industrial or commercial purposes, and (iii) education or public activities; and (2) for not over 5 acres for summer homes and stores;

(e) Easements for rights-of-way for pipeline purposes for the transportation of oil and gas and products thereof where no Federal land other than National Forest System land is required, and permits for the tem-

porary use of additional National Forest System land necessary for construction, operation, maintenance or termination of a pipeline or to protect the natural environment or the public safety under section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended, (30 U.S.C. 185);

(f) Permits, term permits, and easements in the National Grasslands and other lands acquired or administered under title III, Act of July 22, 1937, 50 Stat. 525, as amended, (7 U.S.C. 1011(d));

(g) Permits under section 7 of the Act of April 24, 1950, 64 Stat. 84 (16 U.S.C. 580d) for periods not over 30 years for the use of structures or improvements under the administrative control of the Forest Service and land used in connection therewith;

(h) Permits, term permits, leases, or easements as authorized by the Act of September 3, 1954, 68 Stat. 1146 (43 U.S.C. 931c, 931d), to States, counties, cities, towns, townships, municipal corporations, or other public agencies for periods not over 30 years, at prices representing the fair market value, fixed by the Chief, through appraisal for the purpose of constructing and maintaining on such lands public buildings or other public works;

(i) Permits under the Wilderness Act of September 3, 1964, 78 Stat. 890 (16 U.S.C. 1131-1136) for temporary structures and commercial services and for access to valid mining claims or other valid occupancies and to surrounded State or private land within designated wilderness (see part 293 of this chapter);

(j) Temporary or permanent easements under the Act of October 13, 1964, 78 Stat. 1089 (16 U.S.C. 532-538) for road rights-of-way over lands and interests in land administered by the Forest Service (see §212.10 of this chapter);

(k) Permits under the Land and Water Conservation Fund Act of September 3, 1964, 78 Stat. 897, as amended (16 U.S.C. 4601-6a(c)), for recreation events and other specialized recreation uses;

(l) Permits, leases and easements under the Federal Land Policy and Management Act of 1976, 90 Stat. 2776 (43 U.S.C. 1761-1771) for rights-of-way for: